

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

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PAULA WALLRICH, DANIELLE JONES, : Civil Action No: 1:22-cv-05506
GRANT GRINNELL, JEFFREY BURTON, :
RHONDA MCCALLUM, PROVIDENCIA : Hon. Harry D. Leinenweber
VILLEGAS, and 49,980 other individuals, :
: Petitioners, :
: :
: - against - :
: :
SAMSUNG ELECTRONICS AMERICA, :
INC. and SAMSUNG ELECTRONICS CO., :
LTD., :
: Respondents. :
: :
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RESPONDENTS' MOTION FOR LEAVE TO SUBMIT ADDITIONAL EXHIBITS

**(1) IN OPPOSITION TO PETITIONERS' MOTION TO COMPEL ARBITRATION AND
(2) IN SUPPORT OF RESPONDENTS' MOTION TO DISMISS THE PETITION**

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Dated: September 1, 2023

Attorneys for Respondents
Samsung Electronics America, Inc. and
Samsung Electronics Co., Ltd.

Respondents Samsung Electronics America, Inc. and Samsung Electronics Co., Ltd. (collectively, “Samsung”) respectfully move the Court for leave to submit the Exhibits attached hereto as additional record materials in support of Samsung’s positions on the pending Petitioners’ Motion to Compel Arbitration (Doc. No. 2) and Respondents’ Motion to Dismiss the Petition (Doc. No. 26) (collectively, the “*Wallrich Motions*”). Briefing was completed on the *Wallrich Motions* on February 9, 2023.

The proposed exhibits relate primarily to *Hoeg v. Samsung Electronics America, Inc.*, No. 1:23-cv-01951 (N.D. Ill., filed Mar. 28, 2023), an action that was filed in this District after briefing of the *Wallrich Motions* was complete. The *Hoeg* petitioners (many of which are also *Wallrich* petitioners) seek relief that is substantially similar to the relief sought by Petitioners here. Like the Petitioners here, the petitioners in *Hoeg* have filed a motion to compel arbitration, and Samsung has correspondingly also moved to dismiss the *Hoeg* petition as it has moved here to dismiss the *Wallrich* petition. (See *Hoeg*, Doc. Nos. 25, 39 (the “*Hoeg Motions*”).) The *Hoeg* action has recently been reassigned to this Court as an action related to *Wallrich*. (See *Wallrich*, Doc. Nos. 40-43, 47.)

Because *Hoeg* was filed after the *Wallrich Motions* were fully briefed, the papers submitted on the *Wallrich Motions* do not include many exhibits that relate to *Hoeg* or that were submitted on the *Hoeg Motions*. Samsung therefore moves this Court for leave to submit those exhibits now so that the Court may also consider them in connection with its resolution of the *Wallrich Motions*. The Court plainly has authority to grant such relief. See, e.g., *S. Capitol Bridgebuilders v. Lexington Ins.*, No. 20-CV-3894, 2021 WL 1426888, at *1 (N.D. Ill. Apr. 15, 2021) (granting motion for leave to submit additional documents in support of motion to transfer); *Donelson v. Holder*, No. 15-cv-0094-MJR-SCW, 2015 WL 4776891, at *1 (S.D. Ill. Aug. 13, 2015) (granting

plaintiff's motion to supplement his briefs in support of his two motions for temporary restraining orders with additional exhibits).

The Exhibits attached hereto are the following:

Ex. Date Description & Rationale for Its Submission Here

A March 30, 2023 Exhibit 3 to Samsung's Motion for Reassignment
(*Wallrich*, Doc. No. 40-3)

Rationale: Samsung's papers on the *Wallrich* Motions raised questions about the due diligence performed by Petitioners' Counsel on the nearly 50,000 individual clients that they purport to represent in *Wallrich*. (See, e.g., *Wallrich*, Doc. No. 27, at 7-11, 14-15; see also Doc. No. 1-15, at PDF pp. 1-2.) When the *Hoeg* action was filed, Samsung determined that nearly a quarter of the 1,028 individual petitioners in *Hoeg* were already Petitioners in *Wallrich*. This exhibit identifies those overlapping petitioners.

B July 28, 2023 Exhibit W to the Supplemental Declaration of Gary M. Klinger
(*Hoeg*, Doc. No. 43-3)

Rationale: Petitioners' counsel in *Hoeg*—Milberg Coleman Bryson Phillips Grossman PLLC (“Milberg”) and Robbins Geller Rudman & Dowd LLP (“Robbins Geller”)—filed a motion to compel arbitration in *Hoeg* on behalf of all 1,028 petitioners even though Samsung had pointed out that many of those petitioners were already petitioners in *Wallrich*. (See *Wallrich*, Doc. No. 40, ¶ 8; see also Doc. No. 1-15, at PDF pp. 1-2; Doc. No. 27, at 14-15.) Thereafter, petitioners' counsel in *Hoeg* submitted a shortened list of petitioners that excluded many but not all of the overlapping petitioners. Petitioners' counsel in *Hoeg* stated in briefing (*Hoeg*, Doc. No. 41, at 11) that the *Hoeg* action was withdrawn as to the *Hoeg* petitioners not identified on this list.

C July 28, 2023 Exhibit V to the Supplemental Declaration of Gary M. Klinger (*Hoeg*, Doc. No. 43-2)

Rationale: Petitioners' counsel in *Hoeg* also submitted a list of 24 individuals who are petitioners in both *Wallrich* and *Hoeg* and stated as to those individuals that (i) they will continue to represent those petitioners in *Hoeg* and (ii) Petitioners' counsel here—Labaton Sucharow LLP (“Labaton”)—will no longer represent those individuals in *Wallrich*. (*Hoeg*, Doc. No. 41, at 11.) However, no steps have been taken to withdraw those 24 Petitioners' claims in this action. (Cf. *Wallrich*, Doc. No. 1-15, at PDF pp. 1-2; Doc. No. 27, at 14-15.)

<i>Ex.</i>	<i>Date</i>	<i>Description & Rationale for Its Submission Here</i>
D	June 6, 2023 (filed July 28, 2023)	<p>Declaration of Wayne Majors (<i>Hoeg</i>, Doc. No. 43-4, at PDF p. 665)</p> <p>Rationale: Petitioners' counsel in <i>Hoeg</i> submitted a compendium of declarations signed by various petitioners in that action purporting to confirm that the various declarants were users of Samsung phones and had entered into an arbitration agreement with Samsung. Samsung has contested the sufficiency of those declarations in <i>Hoeg</i>. No such declarations have been submitted in <i>Wallrich</i>.</p> <p>Wayne Majors, the signatory to this declaration, is a <i>Wallrich</i> Petitioner and also a <i>Hoeg</i> petitioner. Neither Labaton nor Milberg and Robbins Geller have attempted to withdraw Mr. Majors's claims in either the <i>Wallrich</i> or <i>Hoeg</i> action. (Cf. <i>Wallrich</i>, Doc. No. 1-15, at PDF pp. 1-2; Doc. No. 27, at 14-15.)</p> <p>Two other law firms also purport to represent Mr. Majors in an ongoing AAA arbitration against Samsung Electronics America, Inc. pursuing the same underlying claims as in <i>Wallrich</i> and <i>Hoeg</i>. (See Ex. F <i>infra</i>.)</p>
E	July 24, 2023 (filed July 28, 2023)	<p>Declaration of Audrey Bryant (<i>Hoeg</i>, Doc. No. 43-4, at PDF p. 127)</p> <p>Rationale: Milberg and Robbins Geller filed Ms. Bryant's declaration in <i>Hoeg</i> as part of the compendium of declarations submitted in that action even though Ms. Bryant is <u>not</u> a <i>Hoeg</i> petitioner. However, she is a <i>Wallrich</i> Petitioner. (<i>Wallrich</i>, Doc. No. 1-2, at PDF p. 480.)</p>

<i>Ex.</i>	<i>Date</i>	<i>Description & Rationale for Its Submission Here</i>
F	August 14, 2023	<p>Letter from Bryan P. Thompson, Chicago Consumer Law Center, P.C. to Victoria Chandler, Director of ADR Operations, American Arbitration Association (“AAA”) (<i>Hoeg</i>, Doc. No. 44-3)</p> <p>Rationale: This letter to the AAA from a law firm (the Chicago Consumer Law Center, P.C.) not involved in <i>Wallrich</i> or <i>Hoeg</i> discusses 16 individuals that that firm and its co-counsel (Kind Law) are purporting to represent in AAA arbitrations against Samsung Electronics America, Inc. Those two law firms are purporting to represent those 16 individuals in AAA arbitrations even though those individuals are also <i>Wallrich</i> Petitioners and/or <i>Hoeg</i> petitioners and are putatively pursuing the same underlying claims in <i>Wallrich</i> and <i>Hoeg</i>. The 16 individuals include Wayne Majors (<i>see Ex. D supra</i>), who is both a <i>Wallrich</i> Petitioner and a <i>Hoeg</i> Petitioner.</p> <p>The letter asserts that the Chicago Consumer Law Center, P.C.’s co-counsel, Kind Law, contacted all 16 individuals, and 11 of those individuals, including Mr. Majors, want them to proceed with the arbitrations despite those individuals being <i>Wallrich</i> and/or <i>Hoeg</i> petitioners—and, in the case of Mr. Majors, despite having provided a sworn declaration in support of the <i>Hoeg</i> motion to compel arbitration on July 28, 2023. The letter also states that the Chicago Consumer Law Center, P.C. and Kind Law have contacted Labaton and Milberg to discuss those 11 individuals but does not divulge whether any discussions took place or, if so, what was discussed. It further asserts that for the other five individuals, Kind Law has been unable to contact them or is waiting for them to confirm how they want to proceed.</p>
G	August 28, 2023	<p>Annotated list of <i>Hoeg</i> petitioners (<i>Hoeg</i>, Doc. No. 44-2)</p> <p>Rationale: Samsung submitted an annotated list of the <i>Hoeg</i> petitioners stating as to each whether that individual is still a <i>Hoeg</i> petitioner (<i>see Ex. B supra</i>), whether that individual submitted a declaration in <i>Hoeg</i> (<i>see Ex. D supra</i>), and whether that individual resides in this District. Just 464 of the <i>Hoeg</i> petitioners—fewer than half of the original 1,028—met all of those criteria. (<i>Cf. Wallrich</i>, Doc. No. 1-15, at PDF pp. 1-2; Doc. No. 27, at 14-15.)</p>

Ex.	Date	Description & Rationale for Its Submission Here
H	July 6, 2023	Letter from Jaime Huff, Vice President and Counsel, Public Policy, Civil Justice Association of California (“CJAC”), to Enrique Zuniga, Public Trust Liaison, The State Bar of California (<i>Hoeg</i> , Doc. No. 44-4)
<p>Rationale: This letter sets forth CJAC’s concerns with abusive mass arbitration practices and alleged ethical violations in the mass arbitration context and requests that the State Bar of California investigate those alleged violations. (<i>Cf. Wallrich</i>, Doc. No. 27, at 7-11, 14-15; <i>see also</i> Doc. No. 1-15, at PDF pp. 1-2.)</p>		

Accordingly, Samsung respectfully requests that the Court grant it leave to file the foregoing Exhibits in connection with the *Wallrich* Motions so that the Court may consider them as it resolves those Motions.

Dated: September 1, 2023

Respectfully submitted,

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